Abstract Proceedings of the Travancore Legislative Council.

The Council met in the Dewan's room, Public Offices, at 12 Noon, on Saturday, the 8th December 1917/23rd Vrischigam 1093.

Present.

DEWAN BAHADUR M. KRISHNAN NAIR ESQ., B. A. & B. L.,
DEWAN.....*Presiding.*

A. J. Vieyra Esq., B. A.
V. Subba Aiyar Esq., B. A. & B. L.
N. Subrahmanya Aiyar Esq., M. A.
Rao Bahadur K. V. Rengaswami Aiyangar Esq., M. A.
N. Raman Pillai Esq., B. A.
John Kuriyan Esq., B. A., B. C. E.
I. C. Chacko Esq., B. A., B. SC.
K. G. Sesha Aiyar Esq., B. A. & B. L.
T. K. Velu Pillai Esq., B. A. & B. L.
Paul Daniel Esq., M. A. & L. T.
A. Govinda Menon Esq., B. A.
M. Subrahmanya Pillai Esq.

K. Narayanan Pandalay Esq., B. A. & B. L.....*Secretary.*

The Secretary reported that the Press Regulation Amendment Bill which was finally passed by the Council on the 14th September 1917, received the assent of His Highness the Maha Raja on the 31st October 1917 and became law as Regulation I of 1093.

THE TRAVANCORE SURVEY AND BOUNDARIES BILL.

Mr. Subba Aiyar, in introducing a Bill to amend the Boundaries Regulation, III of 1058, said as follows:—

"I beg to introduce a Bill to amend the Boundaries Regulation, III of 1058. The scope of the Bill is sufficiently explained in the Statement of Objects and Reasons. I also explained the main principle of the Bill at the last meeting of the Council while asking for permission to introduce it. I do not think that I need add anything to what I have already stated. I therefore beg to move that the principle of the Bill be affirmed."

Seconded by Mr. Vieyra.

Carried.

Mr. Subba Aiyar then moved that the Bill be referred to a Select Committee consisting of Messrs. Kuriyan, Govinda Menon and the Mover, to report within three months.

Seconded by Mr. Rengaswamy Aiyangar.

Carried.

THE LAND IMPROVEMENT AND AGRICULTURAL LOANS BILL.

Mr. Subba Aiyar then introduced a Bill to amend the Agricultural Improvement Loans Regulation, IV of 1066, as amended by Regulation, III of 1085, and, in doing so, spoke as follows:—

"Sir,

Though Travancore is mainly an agricultural country the produce raised in it is not sufficient to maintain its own population. It is common knowledge that a large quantity of paddy worth many lakhs has to be imported into the country every year. With a view therefore to enlarge the area of cultivation and with a view to encourage the ryots who though having the inclination to improve their lands have not the means to do so, the Agricultural Loans Regulation, IV of 1066, was passed. The Regulation has been in existence for about twenty seven years and it cannot be said that the object with which the Regulation was passed has been fulfilled. It was however brought to the notice of the Government at the Sessions of the Sri Moolam Popular Assembly in the years 1905, 1907, and 1908 that the Regulation was not applicable to improvement of garden lands and that, if the Regulation were amended, it will be of real help to the agriculturists. In pursuance to the above representations, the amending Regulation of 1085 was passed. In spite of this amendment the Regulation continues to be practically inoperative as will be seen from the small number of applications received from year to year. At the 11th Session of the Sri Moolam Popular Assembly Mr. K. C. Mamman Mappillay, Member.

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Kottayam taluq, pointed out that, on account of the stringency of the Regulation, people could not freely avail themselves of its provisions. The Government thereupon resolved that the Regulation should be amended as some of its provisions are unworkable in practice. With a view to amend the Bill the opinions of all the Peishkars, the Commissioner of Devicolam and of the Director of Agriculture and Fisheries were invited. Their suggestions have in the main been adopted. Similar enactments are in force in British India and in other Native States, and it cannot be said that those enactments are better availed of there than here. The fact that the Regulation is virtually a dead letter may be due to various causes. In the first place the disposal of an application for loan necessarily entails some unavoidable delay as without some enquiry the public servants are not expected to know the necessary particulars about the applicant and it will be unsafe to issue money from the public treasury without such enquiry.

In the second place, the agriculturist may feel that there are some disadvantages in applying to the Government for a loan rather than to a private money lender. The Government will lend the ryot only for one purpose, *viz.*, the improvement of the land, whereas a private money lender will lend him for all purposes. The moment a loan is taken from Government for land improvement a first charge is created in favour of Government for the amount of the loan. Consequently the borrower finds it difficult to raise subsequent loans from money lenders when he wants the same for other pressing purposes. Further, if he makes up his mind to take a loan from Government he has to act up to the terms on which the loans are granted. The loans are made by instalments and the officers have to be satisfied that the amounts received at each instalment are utilised for the works for which they are borrowed. Instances are not rare where the borrowers owing to inability or otherwise divert the funds for more pressing needs with the result that payments of subsequent instalments have sometimes to be withheld. The above causes could not be easily remedied, and may continue to exist even though the Regulation is amended. Perhaps a system of co-operative banks for the benefit of the agriculturists may do them considerable good. At the same time if the ryot makes up his mind to put up with the inevitable delay, if he will understand that by creating a first charge in favour of Government his rights to raise subsequent loans are not in the least affected and if he will only keep to the terms on which the loans are raised, the Regulation will prove to be of substantial help to him. With a view therefore to make the Regulation as popular as possible it is proposed to minimise the delay in the disposal of applications as far as possible and to remove other defects found to exist in the practical working of it. The procedure prescribed by Sections 4 to 7 of the Regulation is found to be cumbrous and to some extent even unworkable. This has been remedied in the draft Bill. There is no provision in the Regulation for villagers or other persons to take loans for their common benefit such as improvement of a common tank. A new provision has therefore been made in the draft Bill for the same, and loans advanced for common benefits may be apportioned among the various ryots and the amount payable by each ryot recovered separately.

With the creation of the Agricultural Department in the State, improved methods of cultivation are being introduced and the suggestions of the Department are freely availed of by the ryot. In order to enable the poor ryots to take advantage of the suggestions of the Department the Director has recommended that a provision ought to be made for the sale of seed, manure, etc., on credit. Clause 4 therefore provides that loans may be made to owners and occupiers of arable land for the relief of distress, the purchase of seed, cattle, manure, agricultural implements and other purposes. It is hoped that this provision will be beneficial to the ryots concerned and will be largely availed of by them. It may, however be suggested that it may not be desirable to incorporate Clause 4 in the Regulation itself and a separate Regulation will be better. For, while in the case of loans for land improvement the amounts are likely to be large, the enquiry elaborate, and the repayment covering many years, the loans under Clause 4 are likely to be for petty amounts requiring but little preliminary enquiry and liable to be repaid within the year. This objection is proposed to be met by making Clause 4 distinct from Clause 3, the Government being empowered to frame a separate set of rules for the two sets of loans. The necessity for a separate enactment has thus been avoided. A Proviso has been added in Clause 7 with a view to make it clear that any loans raised under the Regulation will not affect any interest in the land which existed before the date of the order granting the loan. The interests of prior charge holders have thus been safeguarded.

I have now explained the main provisions of the Bill and I beg to move that the principle of the Bill be affirmed."

Seconded by Mr. Raman Pillai.

Mr. Velu Pillay.

"Sir,

If Travancore lies in a remote corner of the Indian Empire separated by the Mountains and the Sea and endowed with the privileges of isolation, that does not mean we are behind the other parts of the world in legislative activity. The large number of Bills that were piloted through this Council and piloted successfully by the Additional Head Sirkar Vakil on behalf of Government, sometimes with no opposition and at other times with an opposition which is under a constitutional disability to make itself felt, amply bear out the fact that Legislation has no difficulties for us. To us law-making is comparatively easy for, models are given to us by the Legislative Councils of British India whose members

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consider the questions entrusted to them in great detail and with masterly ability. This fact probably explains why one single member of this Council representing the Government is invariably able to place his irons on the forge with characteristic punctuality. We know what an easy matter it is for this Council to pass laws on any subject whether the Insects and Plant Pests Bill or the Glanders & Farcy Bill, without the assistance of the pedantic expert who would perhaps make the sittings of this Council lengthy and wearisome. I have heard persons complaining that our laws are often transcriptions and I have also heard the suggestion made that much time will be saved if we but accept the British Indian Acts with no modification.

Whatever that may be, the present Bill does not appear to have been indited with the object of economising time or minimising effort; for a new Bill of this kind is not required if the object of Government is not different from the one set forth in the Statement of Objects and Reasons. That object, sir, is "to extend the Regulation so as to include loans for the purchase of seeds, manure, &c." The Regulation which is now Law was passed in 1066 at a time, when the fund of legal and agricultural knowledge at the command of Government was not so great as it is at present. But that Regulation seems to have been very carefully framed and it was extended by the Amendment of 1085. I can claim to have made a serious attempt to find out the new provisions that Mr. Subba Aiyer professes to have engrafted upon the old Regulation. Besides Section 9 which after all is a matter of adjective law and Section 11 the purpose of which would have been amply served by an executive order under the Regulation, the only change that I have been able to discover is in Section 4. It is to the effect that loans may be granted "for the relief of distress, the purchase of seed, cattle, manure, agricultural implements or any other purpose not specified in Section 3 but declared by a Notification in our Government Gazette to be connected with agricultural objects". Clause (f) of Section 2 of the Regulation now in force enables Government to declare "such other works as our Government may from time to time" by Notification in the Gazette, to be improvements for the purposes of this Regulation. A small verbal change in this Clause would have been enough to give the benefit of the law to the purchase of seeds, manure, &c., as is laconically put in the Statement of Objects and Reasons. The title also need not have been changed. If the title (agricultural loan) is faulty the present label "Land Improvement and Agricultural Loans" is equally so; for, the relief of distress and purchase of cattle are not land improvement strictly so called. If however the Regulation contemplates to render assistance in the matter of converting a marsh into a building site the extended definition would have been necessary. But such an object is not provided for in the Bill as is made clear by the explanations to Section 3 which confines itself to agricultural improvements. My chief contention therefore is that this Council is not justified in accepting a Bill of this nature as very little consolidation and amendment appear to have been made in the draft. Let us not pull down the edifice and then begin to rebuild it when the old structure serves the purpose and serves it well enough. We may have expert architects but let us not use their services without discrimination. I do not think that we are any the better for some of the Regulations passed through this Council of late such as the Land Conservancy and Markets Regulations.

And the present Bill is a double edged evil. On the one hand it makes proceedings regarding loan applications optional with the officer appointed under the Regulation, while the existing law makes it imperative on the Tahsildar to start proceedings by the publication of a notice. This is a businesslike procedure although in certain cases the application for the loan may eventually be rejected by himself or the Division Peishkar to whom the papers regarding the inquiry have to be submitted. The Tahsildar must move as soon as an application is received and the Peishkar will in practice sanction the Tahsildar's recommendation with suitable modifications. This is a system of checks and balances. The powers of the new officer are not properly defined and the effect is to make the disposal of such application a matter of inclination or pleasure. The option vested with the officer in Section 5 expressed in language of delightful vagueness is to the effect that he may give public notice if he thinks it expedient. I would desire to see the word "may" changed into another small word "shall" and the qualifying clause which follows omitted. A law ought to confer a right and not a favour, and so long as the free option above mentioned is retained, the officer gets the power of conferring a favour on an unworthy applicant. Public notice of the application will enable the officer himself to find out the real worth of a person who passes for an important man but whose fortunes are really hollow.

There is a significant omission made in the present Bill which should surely be rectified. Section 6 of the existing Regulation enables the Peishcar to give loans not exceeding Rs. 250. The Dewan's jurisdiction to grant loans ranges from amounts exceeding Rs. 250 but not exceeding Rs. 3000 and for still larger sums Royal sanction is declared necessary. I cannot agree to have this Section omitted from the Regulation. It is true that no dilatoriness should be allowed in disposing of applications for loans, but if the officer or officers empowered under the Regulation are privileged to grant large sums, the generosity of Government will benefit the wealthy and influential classes to the detriment of their poorer neighbours. Rs. 5000 given to each of 20 persons aggregate to a lakh of rupees and the Government always in embarassment for funds will not see their way to sanction more. Sir, the kind of loan that agriculturists need in this country would range from Rs. 50 to Rs. 500 and *this Regulation is to help the needy farmer and not the opulent speculator*. I am therefore strongly of opinion that Section 6 of the present Regulation ought to be preserved in the haste of making laws up-to-date. The Mover would

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say that Government will make rules on the subject. I maintain that this is a matter fit to be discussed in this Council and not to be left to Government. The absence of a provision for appeals against orders of refusal is a retrograde step and requires reconsideration.

Sir, the amendments sought to be made in the law of agricultural loans are not so important as will justify us in repealing the existing Regulation and enact a new one in its place. No one is going to be compensated for the time and trouble that will have to be spent in the attempt. An amendment or two with suitable verbal changes will be quite sufficient and the object of Government in helping agriculturists will be attained not so much by a brand new Regulation as by its sympathetic administration."

Mr. Paul Daniel :—

"Sir,

This Bill supersedes a Regulation which on account of certain provisions put in with a view to prevent any loss to Government has been rendered practically useless to those for whose benefit it was passed. During the 26 years and more the Regulation has been in force, it is doubtful whether 26 loans have been applied for and granted. Very possibly, the number is much less. This is because the procedure laid down both in the Regulation and in the Rules is so cumbersome and the time required for its due observance is so long. Besides, the objects for which loans could be obtained were circumscribed in such a manner that the minor cultivators were left out of it altogether. The new Bill, whose chief features are a simplification of the processes to be gone through to obtain a loan, with the inclusion of such objects as the purchase of seed, cattle, manure and agricultural implements, is, therefore, a great improvement on the existing law. It has the ring of practicality about it. If the ryots of the State, especially of South Travancore ever needed help and encouragement from the Government, it is now. Attracted by the Kodayar Irrigation Scheme, many petty land owners made an attempt to convert their dry and garden lands into wet for the cultivation of paddy, that being their staple food. By this venture they have even lost what means of subsistence they formerly had. They destroyed many valuable trees in the hope of getting a plentiful harvest for the mere levelling and sowing of some paddy seeds but they are now undeceived. By their venture they have not only lost the produce of the trees but are also running into debt by repeatedly cultivating paddy to reap not much more than they sowed. In some cases they are allowing the lands to lie fallow for want of the means to buy manure, seeds, etc. Unless the new conversions are copiously manured for a number of years, the cultivators will be losing heavily every year. Many of them have not the wherewithal to obtain the manure and the cattle and the green leaves indispensable to paddy cultivation. Any relief therefore which the Government may extend to them at this critical period of their adventure will be highly appreciated. Only, the rules framed under Section 10 of the Bill should be so simple that even the poorest ryot could take advantage of this kind provision and the rate of interest charged so low that it does not come up to the ordinary rate. As petty loans for the relief of the distress and for the purchase of seeds, etc. cannot be of much use unless they are timely, some provision should be made either in the Regulation or in the Rules fixing the time within which applications should be disposed of by the officer empowered by the Government to deal with such loans to enhance the value of the offer. I trust that the conversion of dry land into paddy fields, which is a process involving heavy expenditure in most cases, will be covered by explanation (*b*) of Clause 3, *viz.*, "preparation of land for irrigation."

Mr. Govinda Menon :—

"I have to differ from Mr. Velu Pillai as regards his observations concerning this Bill and I have to support the principle of the Bill. Now, as it stands, we have the Bill before us and as far as this Council is concerned, we have only to see whether the principle of the Bill can be affirmed. We are at liberty to examine each of the provisions of the Bill at a further stage and if it is then found that there are provisions which are not suited to meet the objects of the Bill, we shall be at liberty to change them in any way we like. Moreover, I have, for more than 7 years, advocated in the Popular Assembly, a change in the existing law, and as such, I do not think it proper for me to go against the present measure. I therefore beg to affirm the principle of the Bill".

Mr. Kuriyan :—

"I fear that the Bill, as it is, will not be construed as applicable to industries. Mr. Barker is investigating many industries and any industry will have to pass through experiment and anybody who undertakes to do this experiment might want help from Government. If, by small changes, we can include loans for industrial purposes also, I think that the scope of the Bill could be extended to the new Department."

President :—"With reference to this I may say that it is possible to discuss it in the Select Committee. But I do not express any opinion. Probably the only object of the Bill is to include land improvement."

Mr. Subba Aiyar said in reply, as follows:—

"With reference to the observations of Mr. Velu Pillai, I beg to say a few words in reply. In the first place, it is said that a few verbal amendments are quite enough. If, by modification of the definition of the term 'agricultural improvement', attempt is made to include seeds, manures, cattle and the like, I do not know whether we could make the law

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workable. I had been at pains for some time to include these in the Section concerned, and I did not succeed, as pointed out in my speech to-day. There are many difficulties in the way. In the first place, the officers administering the loans under the several heads specified will be different; for instance, the agricultural loans will have to be made by the Land Revenue officers, while those for manure, etc., by officers of the Agricultural Department. In the case of the latter loans, the amounts may be repaid at short intervals within a year, while in the former, the amounts will have to be repaid in many years. In the mode of realisation also, there will be a difference. I do not know whether it is desirable to include seeds among agricultural works. Sections 4 to 7 of the existing Regulation are, according to the opinion of many experts, cumbrous and unworkable. They have therefore to be deleted. With reference to the discretion vested in the Tahsildars in the matter of notice, I have to say that the Section was purposely put in at the suggestion of some of the Revenue officers for various reasons. The Tahsildar may be of opinion that no notice is necessary. The applicant may be very solvent and the Tahsildar may be fully statisfied that the applicant is entitled to receive the loan, and yet if a notice is to be published in such a case, there would be a long and unnecessary delay in the disposal of the application. Whether a notice should be given or not should therefore be left to his discretion. With reference to the amount of loan, which each officer should be empowered to give, it may vary from time to time and with the officers of the various departments. If these matters are put in the Regulation, it will become very rigid and unworkable. To make the Regulation elastic, the Government are empowered to make rules so as to suit different conditions without going through the elaborate process of introducing amending Bills and getting them passed. I fear that my friend has not fully grasped the object with which the Bill is framed, and I accordingly move that the principle of the Bill be affirmed."

Mr. Subba Aiyar's motion was carried.

Mr. Subba Aiyar then moved that the Bill be referred to a Select Committee consisting of Messrs. Rengaswamy Aiyangar, Kuriyan, Govinda Menon, Subramanya Pillai and the Mover to report within three months.

Seconded by Mr Paul Daniel.

Carried.

THE CRIMINAL LAW AMENDMENT BILL.

Mr. Subba Aiyar presented the report of the Select Committee on the Criminal Law Amendment Bill and moved that the report and the Bill be taken up for consideration at once.

Seconded by Mr. Rengaswamy Aiyengar.

Carried.

CLAUSE 4.

Mr. Sesha Aiyar, in moving that the whole of Clause 4 be deleted and that the following Clauses be renumbered, spoke as follows :—

"Sir,

The amendment that I move is that Clause 4 of the Criminal Law Amendment Bill as revised by the Select Committee, *i. e.*, the Clause that was just now read and that is marked in the Bill as Sections 110 A and 110 B be deleted. When the learned Head Sirkar Vakil introduced this Bill in Council, he explained that the Travancore Penal Code followed closely the Indian Penal Code, and that the Clauses in the Bill were intended to bring our Regulation into conformity with the British Indian Statute. He also appealed to the Criminal Law of England under which conspiracy is made punishable even if no overt act or illegal omission takes place in furtherance or pursuance of the conspiracy. After this Bill was referred to the Select Committee, we find that the two Non-official members that sat on the Select Committee appointed to consider this Bill have recorded their opinion that the Clause relating to conspiracy must be deleted. I have given my most anxious consideration to this provision of the Bill, and I beg leave to state that I have not been able to perceive any adequate or acceptable reason for the creation of this new offence.

We have been referred to the precedent in the British Indian Statute; and the present Clause is taken from the Indian Criminal Law Amendment Act, VIII of 1913. The reference, however, to the British Indian precedent is, it seems to me, misleading. In the Statement of Objects and Reasons that accompanied the Indian Bill it was stated in justification of that measure "Experience has shown that dangerous conspiracies are entered into in India which have for their object aims other than the commission of the offence specified in Section 121 A of the Indian Penal Code, and that the existing law is inadequate to deal with modern conditions". Not one word of this grave statement applies to Travancore, where no altered circumstances or conditions have sprung up so as to render the creation of the offence of criminal conspiracy necessary. The Indian enactment that constituted conspiracy a distinct offence was an emergent measure passed in view of the special circumstances that then existed. One might naturally ask what are the exceptional circumstances that have suddenly come into being in Travancore that have necessitated the introduction of this dangerous provision. In our State, Section 113 of our Penal Code, which corresponds to Section 121 A of the Indian Penal Code, has been the only Section hitherto under which a mere conspiracy to do an illegal act, that does not go beyond a conspiracy, is made punishable; and, so far as I know, no new situation

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